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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOARD OF TRUSTEES OF THE SOUND
RETIREMENT TRUST,

Plaintiff,

v.

K-C FOOD CORPORATION, UBI No.
600147524,

Defendant.

NO.

COMPLAINT FOR COLLECTION OF
EMPLOYER WITHDRAWAL
LIABILITY

For its complaint, plaintiff alleges as follows:

I. PARTIES, JURISDICTION AND VENUE

1. Plaintiff is the Board of Trustees of the Sound Retirement Trust (“Trust”). The Trust is an “employee pension benefit plan” as defined in Section 3(2) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. § 1002(2), and a “multiemployer plan” as defined in ERISA § 4001(a)(3), 29 U.S.C. § 1301(a)(3). Plaintiff is the “plan sponsor” of the Trust, as defined in ERISA § 4001(a)(10), 29 U.S.C. § 1301(a)(10).

COMPLAINT FOR COLLECTION OF EMPLOYER
WITHDRAWAL LIABILITY - 1

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1 2. Defendant K-C Food Corporation (“K-C Food”) is a Washington state
2 corporation having its principal business location in Des Moines, Washington.

3 3. K-C Food is an “employer” as defined in ERISA § 3(5), 29 U.S.C. § 1002(5).

4 4. This Court has jurisdiction over this action pursuant to ERISA §§ 4301 and
5 4221(b), 29 U.S.C. § 1451 and 29 U.S.C. § 1401(b), respectively.

6 5. Venue is properly laid in this Court pursuant to ERISA § 4301(d), 29
7 U.S.C. § 1451(d), because the Trust is administered within this judicial district.

8 **II. CLAIM FOR RELIEF: TRUST’S WITHDRAWAL LIABILITY**

9 6. The Trust re-alleges the facts set forth in paragraphs 1 through 5 above as if
10 stated fully herein and further allege as follows:

11 7. The “plan year” of the Trust for purposes of ERISA § 4205, 29 U.S.C. §
12 1385, begins July 1st and ends the following June 30th.

13 8. Prior to June 2019, K-C Food was obligated to make employer contributions
14 to the Trust on behalf of certain of their employees under the terms of one or more collective
15 bargaining agreements.

16 9. In June 2019, K-C Food permanently ceased to have an obligation to
17 contribute to the Trust.

18 10. In June 2019, K-C Food had a complete withdrawal from the Trust for the
19 purposes of ERISA § 4203, 29 U.S.C. § 1383.

20 11. As a result of its complete withdrawal, the Trust initially determined that K-C
21 Food owes \$1,731,183.00 in withdrawal liability.
22

1 12. Pursuant to ERISA § 4219(c)(1)(B), the number of payments to pay off its
2 withdrawal liability assessment were limited to 80 quarterly installment payments in the
3 amount of \$17,214.00 with the first payment due on November 1, 2019.

4 13. By letter dated September 4, 2019, the Trust notified K-C Food in writing of
5 its withdrawal liability assessment and demanded payment in accordance with the
6 installment schedule.

7 14. K-C Food never asked for a review of the assessment, requested additional
8 information or documentation from the Trust, or made the required payments when due.

9 15. K-C Food did not request arbitration in accordance with ERISA § 4221(a), 29
10 U.S.C. § 1401(a).

11 16. By letter dated November 5, 2019, the Trust notified K-C Food that its initial
12 \$17,214.00 quarterly payment had not been received and that payment must be made within
13 60 days to avoid a default pursuant to ERISA § 4219(c)(5), 29 U.S.C. § 1399(c)(5).

14 17. K-C Food did not make the required payment within 60 days and was
15 accordingly declared in default pursuant to ERISA § 4219(c)(5), 29 U.S.C. § 1399(c)(5).

16 18. Pursuant to ERISA § 4221(b)(1), 29 U.S.C. § 1401(b)(1), K-C Food owes the
17 Trust immediate payment of \$1,731,183.00 in withdrawal liability.

18 19. Under the terms of the Trust Agreement and ERISA §§ 4301(b), 515, and
19 502(g)(2), K-C Food is obligated to pay liquidated damages, interest, reasonable attorney's
20 fees, and costs and expenses of suit to be determined upon motions at trial. 29 U.S.C. §§
21 1451(b), 1145, 1132(g)(2).

1 WHEREFORE, plaintiff prays for judgment as follows:

- 2 (a) For withdrawal liability from K-C Food Corporation in the amount of
3 \$1,731,183.00 with interest thereon determined in accordance with ERISA
4 §§ 4219(c)(6) and 4221(b)(1). See 29 U.S.C. §§ 1399(c)(6) and 1401(b)(1);
5 (b) For attorney fees and costs, pursuant to ERISA § 502(g). See 29 U.S.C. §
6 1132(g); and
7 (c) For such other and further relief as this Court deems just and equitable.
8

9 DATED this 7th day of February, 2020.

10 s/ Douglas M. Lash

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